

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

M269387
E/mb

WILLIAM F. MASTRO, J.P.
REINALDO E. RIVERA
MARK C. DILLON
RUTH C. BALKIN
CHERYL E. CHAMBERS, JJ.

2019-00958

DECISION & ORDER ON MOTION

In the Matter of Frederick M. Oberlander,
admitted as Frederick Martin Oberlander,
an attorney and counselor-at-law.

(Attorney Registration No. 3878212)

Motion by the respondent, inter alia, in effect, to vacate an opinion and order of this Court dated September 11, 2019. The respondent was admitted to the Bar at a term of the Appellate Division of the Supreme Court in the Second Judicial Department on June 23, 1999, under the name Frederick Martin Oberlander. By order to show cause dated February 6, 2019, this Court directed the respondent to show cause why discipline should not be imposed upon him in this State pursuant to 22 NYCRR 1240.13, based on the misconduct underlying the discipline imposed by an order of the United States District Court for the Eastern District of New York, dated August 13, 2018. By opinion and order dated September 11, 2019, this Court suspended the respondent from the practice of law for a period of one year, commencing October 11, 2019, based on the misconduct underlying the disciplinary action taken against him by the District Court. In a temporary restraining order, contained in an order to show cause dated September 27, 2019, which initiated this motion, this Court stayed the effective date of the respondent's suspension pending disposition of this motion.

The respondent failed to notify the Court of the disciplinary action taken against him as required pursuant to 22 NYCRR 1240.13(d), and failed to respond to the order to show cause dated February 6, 2019. By affidavit dated September 25, 2019, the respondent now advises this Court that the District Court has stayed enforcement of the order dated August 13, 2018, by an order of the District Court dated November 7, 2018, pending hearing and determination of an appeal from the order dated August 13, 2018, by the United States Court of Appeals for the Second Circuit.

Upon the papers filed in support of the motion and the papers filed in opposition thereto, it is

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ORDERED that the motion is granted to the extent that the opinion and order of this Court dated September 11, 2019, is recalled and vacated on the ground that enforcement of the order dated August 13, 2018, was stayed by the District Court, and the motion is otherwise denied; and it is further,

ORDERED that the above-entitled disciplinary proceeding is held in abeyance, pending determination of the appeal of the order dated August 13, 2018; and it is further,

ORDERED that the respondent is directed to apprise this Court of the outcome of his appeal from the order dated August 13, 2018, expeditiously, after the appeal is decided or otherwise resolved.

MASTRO, J.P., RIVERA, DILLON, BALKIN and CHAMBERS, J.J., concur.

ENTER:

A handwritten signature in black ink, appearing to read "Aprilanne Agostino". The signature is fluid and cursive, with the first name and last name clearly distinguishable.

Aprilanne Agostino
Clerk of the Court